

REMARKS

Claims 8-28 are pending in this application. By this Amendment, claims 14, 22-24 and 26-28 are amended.

Applicants thank Examiner Alexander for the courtesies extended to Applicants' representative during the February 10, 2010, telephonic interview. During the interview, Applicants' representative discussed the rejections of claims 8, 13 and 14 and the Pfeifer and Levinson references. Examiner Alexander indicated that the amendments made by Amendment B have been entered, but the arguments made in Amendment B have not been considered. This Amendment C repeats those arguments and presents additional arguments.

Applicants draw attention to MPEP §706.07(h) and 37 CFR §1.114(d). 37 CFR §1.114(d) states that if an applicant timely files a submission and fee, the Office will withdraw the finality of any Office action and the submission will be entered and considered. On September 21, 2009, Applicants filed an Amendment B in response to the July 13, 2009, Final Office Action. Applicants filed an RCE on October 13, 2009, requesting entry of Amendment B. In accordance with MPEP §706.07(h) and 37 CFR §1.114(d), the arguments presented in Amendment B should have been considered and a response to those arguments should have been included in the November 24, 2009, Office Action. Because the pending Office Action did not include a response to those arguments (and because claim 8 has not been amended), if the next Office Action rejects claim 8 or any other non-amended claim, that Office Action should be non-final.

Applicants gratefully acknowledge the Examiner's indication that claims 12 and 15-23 are allowed.

Claims 22, 23, 26 and 27 are amended to correct a typographical error.

The Claimed Invention

An exemplary embodiment of the invention, as recited by independent claim 8, is directed to a coffee machine that includes a housing and a brewing chamber disposed within

the housing; and a drawer for supplying coffee pads into the brewing chamber, the drawer being removably and detachably connected to the housing.

Conventional coffee machines that include a drawer for supplying a coffee pad into a brewing chamber require the coffee pad to be removed by hand because the drawer is fixed to the coffee machine and is not removable.

The present invention addresses and solves this problem by providing a drawer that is removably and detachably connected to the housing of the coffee machine.

The Levinson Reference

The Office Action rejects claims 8-11 and 24-28 under 35 USC §102(a) as allegedly being anticipated by U.S. Patent No. 3,260,190 to Levinson. Applicants respectfully traverse the rejection.

The applied reference does not teach or suggest the features of the claimed invention including 1) a drawer for supply coffee pads into a brewing chamber (claim 8); and 2) at least one projection for pressing a coffee pad against the coffee pad retainer (claims 26 and 27).

Claim 8 includes the feature of a drawer for supplying coffee pads into the brewing chamber. In contrast, Levinson does not disclose a drawer that supplies coffee pads into a brewing chamber. According to statements made in the February 10, 2010, telephone interview, the Office Action considers the open space inside the device of Levinson as the claimed brewing chamber. Applicants respectfully disagree that the open space inside the device of Levinson can be a brewing chamber because the brewing does not take place in this open space. The brewing in Levinson takes place inside can 5 itself. As a result, if Levinson did disclose a brewing chamber, it would be can 5. Since can 5 is the only area in Levinson that can reasonably be considered a brewing chamber, Levinson does not supply coffee pads into a brewing chamber. This is because the Office Action defined coffee pad (can 5) of Levinson is the brewing chamber of Levinson and a brewing chamber cannot be inserted into itself.

Claims 26 and 27 include the feature of at least one projection on a bottom side of the retainer cover, the projection being for pressing a coffee pad against the coffee pad retainer. Applicants respectfully submit that the Office Action defined projections (piercing elements 28, 28') of Levinson pierce can 5, they do not press can 5 against anything. Lower platen 27 of Levinson presses can 5 against upper platen 26.

In view of the foregoing, Applicants respectfully submit that Levinson does not disclose each and every feature of Claims 8-11 and 24-28, and therefore rejection under 35 USC §102(a) is inappropriate. As a result, Applicants respectfully request withdrawal of the rejection.

The Pfeifer Reference

The Office Action rejects claims 8-11 and 14 under 35 USC §102(a) as allegedly being anticipated by U.S. Patent No. 6,904,840 to Pfeifer et al. Applicants respectfully traverse the rejection.

The applied reference does not teach or suggest the features of the claimed invention including 1) a drawer for supply coffee pads into a brewing chamber, the drawer being removably and detachably connected to the housing (claim 8); 2) ends of continuations that are at least slightly beveled with respect to the direction of insertion for centering insertion of the drawer (claim 10); and a coffee pad retainer mounted telescopically on the drawer (claim 14). As explained above, these features are important for a user to be able to remove a used coffee pad without touching the coffee pad.

Further, considering the claimed invention as a whole, providing the removable and detachable nature of the drawer enables removing the coffee pad from the drawer without the user having to touch the coffee pad. Pfeifer does not teach or suggest a removable and detachable drawer because pod holder 72 of Pfeifer can be removed from tray assembly 16 (the feature of Pfeifer applied by the examiner to correspond to the claimed drawer) (see col. 6, lines 6-8). As a result, Pfeifer does not teach or suggest any reason for removing tray assembly 16 from the coffee machine.

The Office Action alleges that “the drawer is guided and supported by rails and guide wheels which allow for a fluid movement forward and backward. A removal of the rails from the guide wheels would allow for removal of the drawer from the housing. It should also be noted that the drawer could be manually removed and placed within the housing by some form of force if need be.” Applicants respectfully submit that the allegation that the drawer could be manually removed and placed within the housing by some form of force stretches the interpretation of this language well beyond any broadest reasonable interpretation.

“During patent examination, the pending claims must be ‘given their broadest reasonable interpretation consistent with the specification. . . . The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. . . This means that the words of the claim must be given their plain meaning unless the plain meaning is inconsistent with the specification. Ordinary, simple English words whose meaning is clear and unquestionable, absent any indication that their use in a particular context changes their meaning, are construed to mean exactly what they say. . . .”

“‘PLAIN MEANING’ REFERS TO THE ORDINARY AND CUSTOMARY MEANING GIVEN TO THE TERM BY THOSE OF ORDINARY SKILL IN THE ART”

“[T]he ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention. . . It is the use of the words in the context of the written description and customarily by those skilled in the relevant art that accurately reflects both the ‘ordinary’ and the ‘customary’ meaning of the terms in the claims.”

(Emphasis original, M.P.E.P. § 2111 and 2111.01).

Applicants respectfully submit that the allegation that the drawer could be manually removed and placed within the housing by some form of force stretches the interpretation of the claim language well beyond any broadest reasonable interpretation and certainly beyond any plain meaning of the terms, such as, for example, “removably connected” and “detachably connected” as interpreted by those skilled in the art.

To allege that the drawer could be manually removed and placed within the housing by some form of force stretches the meaning of these terms beyond the plain meaning in a manner which renders the meaning inconsistent with the specification as it would have been read and interpreted by one of ordinary skill in the art. The specification describes an

exemplary embodiment of a coffee machine having a slide-in area 120 into which a drawer 122 can be slid. The drawer is positioned in the coffee machine in a detachable manner so that the used coffee pad can be removed from the coffee machine together with the drawer to enable a user to remove the coffee pad from the coffee machine without touching the coffee pad. One of ordinary skill in the art would interpret the claim language to mean that the drawer can be removed from the coffee machine without breaking the drawer or the coffee machine. One of ordinary skill in the art would not interpret the claim language so broadly as to read upon the tray assembly 16 of Pfeifer. Pfeifer does not teach or suggest that tray assembly 16 is made to be removable without breaking it or the coffee machine. Applicants respectfully submit that one of ordinary skill in the art would not have interpreted the claim language so broadly as to read upon a tray or drawer that is not made to be removable and replaceable in the normal use of the coffee machine and, in fact, any such interpretation would be inconsistent with the specification as understood by one of ordinary skill in the art. The allegation that tray assembly 16 corresponds to the claimed drawer stretches the interpretation of this term well beyond any reasonable interpretation and certainly beyond the plain and/or ordinary and customary meaning that would be applied to the terms by one of ordinary skill in the art.

Regarding claim 10, the Office Action does not indicate what part of Pfeifer corresponds to the claimed ends of the continuations that are at least slightly beveled with respect to the direction of insertion for centering insertion of the drawer. Because tray assembly 16 is not removed in normal use of the coffee machine, it is unclear why any beveling would be beneficial. This is particularly true for beveling in the direction of insertion since tray assembly 16 does not need to be reinserted into an opening. It is noted that the angled portions of rails 82, 84 shown in Fig. 7 are not in “the direction of insertion” and are not for “centering the insertion of the drawer”, as required by claim 10.

Regarding claim 14, the Office Action provides nothing to support the rejection. Applicants respectfully request that some direction be given as to what part of Pfeifer is being relied upon to support this rejection.

In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified. (37 CFR §1.104(c)(2)).

Further, claim 14 includes the feature of a coffee pad retainer mounted telescopically on the drawer such that the coffee pad retainer can be moved telescopically from a first position in which the brewing chamber is open, to a second position in which the brewing chamber is closed. Applicants respectfully submit that nothing in Pfeifer is disclosed as moving telescopically. Further, the Office Action has taken the position that the open area inside the device of Pfeifer corresponds to the claimed brewing chamber. Based on this position, there is nothing in Pfeifer that is mounted on the drawer that is moved to a position in which the brewing chamber is closed.

In view of the foregoing, Applicants respectfully submit that Pfeifer does not disclose each and every feature of Claims 8-11 and 14, and therefore rejection under 35 USC §102(a) is inappropriate. As a result, Applicants respectfully request withdrawal of the rejection.

The Pfeifer Reference in view of the Basile Reference

The Office Action rejects claim 13 under 35 USC §103(a) as allegedly being unpatentable over U.S. Patent No. 6,904,840 to Pfeifer et al. in view of U.S. Patent No. 6,510,783 to Basile et al. Applicants respectfully traverse the rejection.

As explained above, Pfeifer does not teach or suggest the feature of a drawer for supplying coffee pads into a brewing chamber, the drawer being removably and detachably connected to the housing as recited by independent claim 8, from which claim 13 depends.

Basile does not remedy the deficiencies of Pfeifer.

Indeed, the Examiner does not allege that Basile teaches or suggests the feature of a drawer for supplying coffee pads into a brewing chamber, the drawer being removably and detachably connected to the housing as recited by independent claim 8.

Further, the Office Action simply states that Basile discloses a drawer for a coffee machine, the drawer having a base which includes a central opening surrounded by smaller openings of a screen member. Applicants respectfully submit that Basile does not teach or suggest either a central opening or further openings in the bottom of a drawer (see col. 7, lines 14-22 and Fig. 2). Applicants respectfully request that some direction be given as to what parts of Basile are being relied upon to support this rejection.

In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified. (37 CFR §1.104(c)(2)).

In view of the foregoing, Applicants respectfully submit that the combination of Pfeifer and Basile does not suggest the features of claim 13, and therefore rejection under 35 USC §103(a) is inappropriate. As a result, Applicants respectfully request withdrawal of the rejection.

CONCLUSION

In view of the above, Applicants respectfully request entry of the present Amendment and allowance of claims 8-28. Claims 12 and 15-23 are allowed. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

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